

N28VHERT

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 HERMÈS INTERNATIONAL, et al.,

4 Plaintiffs,

5 v.

22 Civ. 384 (JSR)

6 MASON ROTHSCHILD,

7 Defendant.

Trial

8 -----x
9 New York, N.Y.
February 8, 2023
10 10:55 a.m.

11 Before:

12 HON. JED S. RAKOFF,

13 District Judge
-and a Jury-

14
15 APPEARANCES

16 BAKER & HOSTETLER LLP
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23 CHRISTOPHER SPRIGMAN
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1 (Jury present)

2 THE COURT: Please be seated.

3 Good morning, ladies and gentlemen. And thank you, as
4 always, for your service.

5 The defendant is a little under the weather, so we're
6 getting him plugged in by Zoom.

7 Ladies and gentlemen, I have your verdict envelope.
8 I'm going to open it in a minute and we'll take the reading of
9 the verdict. But I will not comment on it because the
10 determination of the verdict is your job, not mine.

11 I do want to, though, tell you how much -- how high an
12 opinion I have of you in this case. You were a very attentive
13 jury. You were carefully listening to all the testimony.

14 We just picked a jury in a criminal case; they are in
15 your prior room. I thought maybe it would be a better idea to
16 have you serve as that new jury, but maybe that's not such a
17 good idea.

18 So let me open the verdict form.

19 All right. The verdict form appears to be in proper
20 form. Give it to the foreperson.

21 THE DEPUTY CLERK: Madam foreperson, please rise.

22 You say you've reached a verdict?

23 THE FOREPERSON: Yes, ma'am.

24 THE COURT: So on Hermès' claim for trademark
25 infringement, do you find the defendant liable or not liable?

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1 THE FOREPERSON: The jury finds the defendant liable.

2 THE COURT: On the claim for trademark dilution, do
3 you find the defendant liable or not liable?

4 THE FOREPERSON: The jury finds the defendant liable.

5 THE COURT: On the claim for cybersquatting, do you
6 find the defendant liable or not liable?

7 THE FOREPERSON: The jury finds the defendant liable.

8 THE COURT: Having found the defendant liable for all
9 three claims, do you find that the First Amendment protection
10 nonetheless bars liability or does not bar liability?

11 THE FOREPERSON: The jury finds that it does not bar
12 liability.

13 THE COURT: With respect to the damages for trademark
14 and/or trademark -- excuse me, trademark infringement and/or
15 trademark dilution, how much do you find in damages?

16 THE FOREPERSON: \$110,000.

17 THE COURT: For the statutory damages for
18 cybersquatting, what do you find in damages?

19 THE FOREPERSON: \$23,000.

20 THE COURT: Very good.

21 My courtroom deputy will take the verdict form from
22 you.

23 And now let me ask each individual, Juror No. 1, is
24 that your verdict?

25 JUROR: It is, your Honor.

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1 THE COURT: Juror No. 2, is that your verdict?

2 JUROR: Yes, your Honor.

3 THE COURT: Juror No. 3, is that your verdict?

4 JUROR: Yes, your Honor.

5 THE COURT: Juror No. 4, is that your verdict?

6 JUROR: Yes.

7 THE COURT: Juror No. 5, is that your verdict?

8 JUROR: Yes.

9 THE COURT: Juror No. 6, is that your verdict?

10 JUROR: Yes, your Honor.

11 THE COURT: Juror No. 7, is that your verdict?

12 JUROR: Yes.

13 THE COURT: Juror No. 8, is that your verdict?

14 JUROR: Yes, your Honor.

15 THE COURT: Juror No. 9, is that your verdict?

16 JUROR: Yes.

17 THE COURT: Very good.

18 Ladies and gentlemen, jury polled, verdict unanimous.

19 Once again, I thank you so much for your service. You
20 may be interested to know you are now excused from federal jury
21 service for four years. But we may come back and get you.

22 Anyway, it's been a pleasure having you here and you
23 can now go back to the jury room.

24 THE DEPUTY CLERK: In Judge Crotty's. And our law
25 clerk will escort you, with the security officer, back to where

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1 you just went.

2 Can everybody please hand me your plaques.

3 (Jury discharged)

4 THE COURT: Please be seated.

5 All right. The Second Circuit's policy, just so
6 you're aware of it, is that lawyers to the parties cannot
7 interview the jurors except upon express permission of the
8 Court. So if anyone wants to do that, just apply to me.

9 Anything else we need to take up now?

10 MR. SPRIGMAN: Yes, your Honor.

11 We wish to renew our motion for judgment as a matter
12 of law. And, your Honor, if you would, please, allow me just
13 to express why this verdict is inconsistent with the law.

14 This verdict is based upon instructions --

15 THE COURT: Counsel, you have expressed yourself with
16 great eloquence throughout this trial and I've been very
17 grateful to hear your views. But I don't think that you want
18 to make the motion that you are about to make now, because then
19 I would have to treat it as a waiver of any motion you might
20 want to make under the rules for reconsideration or for new
21 trial or so forth, which is normally a motion that must be made
22 under the rules in a number of days. So if you want to be
23 heard now, I won't hear you later. But it's your choice.

24 MR. SPRIGMAN: Your Honor, I believe I will take your
25 advice.

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1 THE COURT: Pardon?

2 MR. SPRIGMAN: I will take your advice.

3 THE COURT: Very good.

4 All right. The rules set the time limits for any
5 motion. If anyone though wants more time or something, jointly
6 convene a conference with the Court and we'll consider that
7 then. You may not need more time, but I usually grant an
8 additional week or two if people need it.

9 So, once again, my thanks to all the lawyers. This
10 was a very well-tried case, I thought, on both sides. And, of
11 course, it always is thrilling to win and not so thrilling to
12 lose, but that's the nature of the process. But it doesn't
13 take away from the fact that all of you should be very proud of
14 the high level of your representation.

15 So you're all excused.

16 I've got to bring in another jury to start a new
17 trial. (Trial concluded)

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